IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Rupa Ram Vs. State of Rajasthan & Anr.
S.B. CR. REVISION PETITION NO.425/2006

Against order dated 29.03.2006 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Pali in Sessions Case No.9/06.

DATE OF ORDER :: 23rd November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. Sandeep Mehta for petitioner.
Mr. K.K. Shah for respondent complainant.

BY THE COURT:

By this petition, challenge has been made to set aside the order dated 29.03.2006 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Pali in Sessions Case No.9/06, whereby charges for the offence under Sec. 302 IPC and Sec.3(2)(V) OF SC/ST (Prevention of Atrocities) Act, 1989 have been framed against the petitioner.

Succinctly stated, in the present matter, on a complaint made by one Bhanwarlal at Police Station, Guda Endla on 09.12.2005 stating that his father was killed by the accused petitioner by running tractor over him. The chargesheet for offences punishable under Sec. 302 IPC and Sec.3(2)(V) OF SC/ST (Prevention of Atrocities) Act, 1989 was filed against the accused petitioner in the Court after completion of necessary investigation by police. Aggrieved, the accused petitioner has approached this Court for quashing and setting aside of the order framing charge against him and has prayed for his discharge from the offences moving the present revision petition under Sec.397/401 of the Criminal Procedure Code.

The contention of the learned counsel for the petitioner is that it is a case of no evidence, therefore, the learned trial Court committed serious error of law while framing charge under Sec.302 IPC and Sec.3(2)(v) of the SC/ST Act. The learned counsel submits that no eye witness is there in the present case, which is based on circumstantial evidence and the evidence which has come

on record is hearsay evidence, therefore, the learned trial has committed serious illegality in framing the charge.

On the other hand, learned Public Prosecutor assisted by learned counsel for the complainant submitted that it is a case where accused petitioner and deceased were having enmity. Learned P.P. submitted that on the day of incident at about 2 O' Clock both accused and deceased were present at the well of the accused petitioner and at about 5 PM on that day the accused intimated others regarding deceased having died on account of various injuries sustained by running over tractor, which was seen in the field at about 2 in the noon. The tractor was of the petitioner and the witnesses have stated about the enmity between the two.

I have considered the submissions made before me.

It appears that the deceased died due to running of tractor over him. The First Information Report in this matter was lodged on 9th December 2005 at 8 AM for an incident which took on 8th December 2005 at about 2 O' Clock. In the First Information Report, allegations have

been made against the accused petitioner and in the statements of Bhanwarlal, Ganga Ram, Deva Ram, Babulal, Inder Singh and Peera Ram, prima facie, it has come that on the day of incident the deceased was seen at the field of accused petitioner. The accused petitioner intimated to others about the death of deceased and his dead body lying in the field. The above witnesses have also stated that there was previous enmity between deceased and the petitioner and though they have stated that the enmity was of 3 years old but at the same time when on 8th December 2005 deceased and petitioner both were seen at the field and that fact is prima facie available in the statements of witnesses that on that day tractor was also seen at the place of occurrence. The allegations are that when only deceased and petitioner both remained at the field, the accused petitioner ran over the tractor on him which resulted in death of the deceased. Thus, to say that the trial Court has committed serious infirmity in framing charge under Sec.302 of the IPC, in my humble opinion, is not a tenable argument. The trial Court, in its order of framing charge, has stated as under:

" . . . प्रथम सूचना रिपोर्ट, गवाहान के बयानात अन्तर्गत धारा 161 दण्ड प्रक्रिया संहिता व पुलिस द्वारा बनाये गये नक्शे मौके से प्रथम दृष्टया यह प्रकट होता हैं कि अभियुक्त ने पुरानी रंजिश को लेकर पकाराम मेघवाल को अनु. जाति का जानते हुए ट्रेक्टर को उसी के खेत में चलाकर व मृतक पकाराम पर जानबूझकर मारने के आशय से चढ़ाकर उसकी हत्या कारित की। अत: उक्त आरोप धारा 302 भारतीय दण्ड संहिता सपठित धारा 3 (2) (पांच) अनु. जाति/ अनु. जनजाति (अ.नि.) अधिनियम 1989 विरचित कर विचारण किया जावे।

इस सम्बन्ध में उभयपक्षों को सुनने के बाद पत्रावली पर उपलब्ध प्रथम सूचना रिपोर्ट, गवाहान के बयानात अन्तर्गत धारा 161 दं.प्र.सं., नक्शा मौका का अवलोकन करने से प्रथम दृष्टया यह प्रकट होता हैं कि अभियुक्त रूपाराम ने अपने कब्जेशुदा ट्रेक्टर स्वराज को अपने ही खेत में मृतक पकाराम पर चढ़ाकर उसकी हत्या उसकी जाति अनुसूचित होने के आधार पर की। अत: अभियुक्त को धारा 302 भा.दं.सं. सपठित धारा 3 (2)(पांच) अनु.जाति अनु.जनजाति (अ.नि.) अधिनियम के आरोप विरचित कर सुनाये जावें।"

The learned trial Court while passing order of framing charge has taken into consideration the material available on record and since the present case is based on circumstantial evidence, as such, the evidence of last seen

as stated by the witnesses is prima facie available. Therefore, I do not find any merit in the instant revision petition.

The revision petition stands dismissed.

(SATYA PRAKASH PATHAK)J.

/jpa